

LONG LAKE TOWN BOARD - TOWN OF LONG LAKE, HAMILTON COUNTY, NEW YORK

**Resolution of January 25, 2023
Authorizing Adoption of the
CODE OF ETHICS OF 2023 FOR THE TOWN OF LONG LAKE**

WHEREAS, the Town Board of the Town of Long Lake last adopted a Code of Ethics as required and pursuant to the state General Municipal Law section 806 in December of 1970;

WHEREAS, due to the passage of time and the evolution of custom, practice, and legal opinion governing ethics in local government since December of 1970 there is need to revise and update the Town's Code of Ethics;

WHEREAS, the Hamilton County Board of Ethics revised and updated the County Code of Ethics in 2018 to "provide clear and reasonable standards of ethical conduct " for all County officeholders and employees;"

WHEREAS, the Code was adopted by the County Board of Supervisors effective June 19, 2018;

WHEREAS, The NYS General Municipal Law requires each municipality to adopt a code of ethics for its own officers and employees but does not require each municipality to establish its own Board of Ethics to administer the Code, but does allow them to do so if they so desire;

WHEREAS, The Town of Long Lake, as do other municipalities within the County has deferred to the County Board of Ethics for counsel and advisory opinions concerning ethics in local government;

WHEREAS, to provide a consistent County-wide approach to municipal government ethics using plain language updated with current interpretations of state law and prevailing opinions concerning ethics, the County Board of Ethics has encouraged all Hamilton County municipalities to adopt the model code proposed by the County Board of Ethics so that the Ethics Board could best render its supporting service for the Town of Long Lake; and,

WHEREAS, this Town Board, with advice of the Town Attorney has examined the County's proposed model code of ethics and has been advised that such a code as tailored herein to the Town may be adopted by resolution.

NOW THEREFORE BE IT RESOLVED:

1. The Town shall continue to defer to the County Board of Ethics for counsel and advisory opinions concerning the implementation of the Town's Code of Ethics;
2. The Town Board has determined that it is prudent and helpful to clarify ethical responsibilities for Town office holders and employees with the plain language articulation of such and the establishment of procedures incorporated into the model code of ethics proposed by the Hamilton County Board of Ethics; and,
3. That the following **CODE OF ETHICS OF 2023 FOR THE TOWN OF LONG LAKE** is hereby adopted and shall have full force and effect as stated by said Code:

CODE OF ETHICS OF 2023

**FOR THE
TOWN OF LONG LAKE**

**--
HAMILTON COUNTY
STATE OF NEW YORK**

ETHICS IN GOVERNMENT

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Section 1. Purpose.

Officers and employees of the Town of Long Lake hold their positions to serve and benefit the public as a whole, and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The Town Board recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct. The purpose of this Code of Ethics is:

- A. To establish those standards;
- B. To provide guidance of these standards to all officers and employees of the Town, whether elected or appointed, paid or volunteer;
- C. To promote public confidence and integrity in local government;
- D. To facilitate the consideration of potential ethical problems before they arise, to minimize unwarranted suspicion, and to enhance the accountability of government to the people by requiring:
 - 1. Public disclosure of conflicts of interest, and potential conflicts of interest, that may influence or be perceived to influence the actions of officers and employees of the Town; and
 - 2. The recusal of any officer or employee of the Town, if the officer's or employee's acting, or failing to act, on the matter may result in a conflict of interest, or give the reasonable appearance of a conflict of interest; and
- E. To provide for fair and effective administration of this Local Law.
- F. This Code of Ethics is the **minimum** standard of ethical conduct; employees and officers are encouraged to go above and beyond these expectations.

Section 2. Definitions.

- (a) "Board" means the Town Board and any Town administrative board, commission, or other agency or body comprised of two or more Town officers or employees.
- (b) "Code" means this Code of Ethics.
- (c) "Interest" means a direct or indirect financial, material or personal benefit, but does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the Town or an area of the Town, or a lawful class of such residents or taxpayers. A Town officer or employee is deemed to have an interest in any private organization when he or she, his or her spouse, or a member of his or her household, is an owner, partner, member, director, officer, employee, or directly or indirectly owns or controls more than 5% of the organization's outstanding stock.
- (d) "Town" means the Town of Long Lake.
- (e) "Town officer or employee" means any officer or employee of the Town of Long Lake, whether paid or unpaid, elected or appointed, full or part time, or in any advisory capacity, and includes without limitation all members of any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau, branch, or committee of the Town of Long Lake.

(f) “Relative” means a spouse, domestic partner, parent, step-parent, sibling, step-sibling, sibling’s spouse, child, step-child, uncle, aunt, nephew, niece, first cousin, or household member of a Town officer or employee, and individuals having any of these relationships to the spouse of the officer or employee.

(g) “Contract” includes any claim, account, demand against or agreement with the Town—verbal or written, express or implied. Almost any business dealing with the Town will involve a “contract”, including purchase or sales agreements, construction agreements and service contracts, as well as vouchers for payment submitted to the Town.

(h) “Board of Ethics” means Hamilton County Board of Ethics.

Section 3. Applicability.

This Code of Ethics applies to the officers and employees of the Town of Long Lake, and shall supersede any prior Town Code of Ethics. The provisions of this Code of Ethics shall apply in addition to all applicable State and local laws relating to conflicts of interest and ethics including, but not limited to, Article 18 of the General Municipal Law and all rules, regulations, policies, and procedures of the Town of Long Lake. In the event of any conflict between this Code of Ethics and the provisions of the General Municipal Law of the State of New York, the stricter standard shall control.

Section 4. Prohibition on Use of Town Position for Personal or Private Gain.

No Town officer or employee shall use his or her Town position or official powers and duties to secure a financial, material or personal benefit for himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.

Section 5. Disclosure of Interest in Legislation and Other Matters.

(a) Whenever a matter requiring the exercise of discretion comes before a Town officer or employee, either individually or as a member of a board, and disposition of the matter could result in, or appear to result in, a direct or indirect financial, material or personal benefit to himself or herself, a relative, or any private organization in which he or she is deemed to have an interest, the Town officer or employee shall disclose in writing the nature of the interest.

(b) The disclosure shall be made when the matter requiring disclosure first comes before the Town officer or employee, or when the Town officer or employee first acquires knowledge of the interest requiring disclosure, whichever is earlier.

(c) In the case of a person serving in an elective office, the disclosure shall be filed with the Town Board. In all other cases, the disclosure shall be filed with the person’s supervisor or, if the person does not have a supervisor, the disclosure shall be filed with the Town officer, employee or board having the power to appoint to the person’s position. In addition, in the case of a person serving on a Town board, a copy of the disclosure shall be filed with the board. Any disclosure made to

a board shall be made publicly at a meeting of the board and must be included in the minutes of the meeting.

Section 6. Recusal and Abstention.

(a) No Town officer or employee may participate in any decision or take any official action (recusal) with respect to any matter requiring the exercise of discretion, including discussing the matter and voting on it (abstention), when he or she knows or has reason to know that the action could confer a direct or indirect financial, material or personal benefit, or appear to do so, on himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.

(b) In the event that this section prohibits a Town officer or employee from exercising or performing a power or duty:

(1) if the power or duty is vested in a Town officer as a member of a board, then the power or duty shall be exercised or performed by the other members of the board; or

(2) if the power or duty that is vested in a Town officer individually, then the power or duty shall be exercised or performed by his or her deputy or, if the officer does not have a deputy, the power or duty shall be performed by another person to whom the officer may lawfully delegate the function.

(3) if the power or duty is vested in a Town employee, he or she must refer the matter to his or her immediate supervisor, and the immediate supervisor shall designate another person to exercise or perform the power or duty.

Section 7. Prohibition Inapplicable; Disclosure, Recusal and Abstention Not Required.

(a) This code's prohibition on use of a Town position (Section 4), disclosure requirements (Section 5), and requirements relating to recusal and abstention (Section 6), shall not apply with respect to the following matters:

(1) adoption of the Town's annual budget;

(2) any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:

(i) all Town officers or employees;

(ii) all residents or taxpayers of the Town or an area of the Town; or

(iii) the general public; or

(3) any matter that does not require the exercise of discretion.

(b) Recusal and abstention shall not be required with respect to any matter:

(1) which comes before a board when a majority of the board's total membership would otherwise be prohibited from acting by Section 6 of this code;

(2) which comes before a Town officer when the officer would be prohibited from acting by Section 6 of this code and the matter cannot be lawfully delegated to another person.

Section 8. Investments In Conflict with Official Duties.

(a) No Town officer or employee may acquire the following investments:

(1) investments that can be reasonably expected to require more than sporadic recusal and abstention under Section 6 of this code; or

(2) investments that would otherwise impair the person's independence of judgment in the exercise or performance of his or her official powers and duties.

(b) This section does not prohibit a Town officer or employee from acquiring any other investments or the following assets:

(1) real property located within the Town and used as his or her personal residence;

(2) less than five percent of the stock of a publicly traded corporation; or

(3) bonds or notes issued by the Town and acquired more than one year after the date on which the bonds or notes were originally issued.

Section 9. Private Employment in Conflict with Official Duties.

No Town officer or employee, during his or her tenure as a Town officer or employee, may engage in any private employment, including the rendition of any business, commercial, professional or other types of services, when the employment:

(a) can be reasonably expected to require more than sporadic recusal and abstention pursuant to section 6 of this code;

(b) can be reasonably expected to require disclosure or use of confidential information gained by reason of serving as a Town officer or employee;

(c) violates section 805-a(1)(c) or (d) of the General Municipal Law; or

(d) requires representation of a person or organization other than the Town in connection with litigation, negotiations or any other matter to which the Town is a party.

Section 10. Future Employment.

- (a) No Town officer or employee may ask for, pursue or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the Town officer or employee, either individually or as a member of a board, while the matter is pending or within one year following final disposition of the matter.
- (b) No Town officer or employee, for the one-year period after serving as a Town officer or employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the Town office, board, department or comparable organizational unit for which he or she serves.
- (c) No Town officer or employee, at any time after serving as a Town officer or employee, may represent or render services to a private person or organization in connection with any particular transaction in which he or she personally and substantially participated while serving as a Town officer or employee.

Section 11. Personal Representations and Claims Permitted.

This code shall not be construed as prohibiting a Town officer or employee from:

- (a) representing himself or herself, or his or her spouse or minor children before the Town;
- or
- (b) asserting a claim against the Town on his or her own behalf, or on behalf of his or her spouse or minor children.

Section 12. Use of Town Resources

- (a) Town resources shall be used for lawful Town purposes. Town resources include, but are not limited to, Town personnel, and the Town's money, vehicles, equipment, materials, supplies or other property.
- (b) No Town officer or employee may use or permit the use of Town resources for personal or private purposes, but this provision shall not be construed as prohibiting:
 - (1) any use of Town resources authorized by law or Town policy;
 - (2) the use of Town resources for personal or private purposes when provided to a Town officer or employee as part of his or her compensation; or
 - (3) the occasional and incidental use during the business day of Town telephones and computers for necessary personal matters such as family care and changes in work schedule.
- (c) No Town officer or employee shall cause the Town to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.

Section 13. Interests in Contracts.

(a) No Town officer or employee may have an interest in a contract that is prohibited by section 801 of the General Municipal Law (any future amendment to said statute shall automatically amend the reference hereinafter):

[Except as provided in section eight hundred two of this chapter, (1) no municipal officer or employee shall have an interest in any contract with the municipality of which he is an officer or employee, when such officer or employee, individually or as a member of a board, has the power or duty to (a) negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder (b) audit bills or claims under the contract, or (c) appoint an officer or employee who has any of the powers or duties set forth above and (2) no chief fiscal officer, treasurer, or his deputy or employee, shall have an interest in a bank or trust company designated as a depository, paying agent, registration agent or for investment of funds of the municipality of which he is an officer or employee. The provisions of this section shall in no event be construed to preclude the payment of lawful compensation and necessary expenses of any municipal officer or employee in one or more positions of public employment, the holding of which is not prohibited by law.]

(b) Every Town officer and employee shall disclose in writing interests in contracts with the Town in accordance with Section 5(c) of the Ethics Code.

Section 14. Avoidance of Contracts Entered Into in Violation of Code of Ethics

Any contract or agreement entered into by or with the Town which resulted in or from a violation of this Code of Ethics shall be null or void and unenforceable unless such contract or agreement is ratified by the Town Board at a public meeting.

Section 15. Nepotism.

Except as otherwise required by law:

(a) No Town officer or employee, either individually or as a member of a board, may participate in any decision specifically to appoint, hire, promote, discipline or discharge a relative for any position at, for or within the Town or a Town board.

(b) No Town officer or employee may supervise a relative in the performance of the relative's official powers or duties.

Section 16. Political Solicitations.

(a) No Town officer or employee shall directly or indirectly compel or induce a subordinate Town officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.

(b) No Town officer or employee may act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or

compensation of any Town officer or employee, or an applicant for a position as a Town officer or employee, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

(c) No Town officer or employee may engage in any political activity: while on duty for the Town; with the use of Town funds; supplies; vehicles or facilities; in uniform; or during any period of time during which he or she is normally expected to perform services for the Town, for which compensation is paid.

Section 17. Complicity with or Knowledge of Others' Violations

(a) No one may, directly or indirectly, induce, encourage, or aid anyone to violate any provisions of this Code. If an officer or employee suspects that someone has violated this code, he or she is required to report it to the relevant individual, either the employee's supervisor, the board on which the officer sits or before which the officer or employee is or will soon be appearing, or the Ethics Board if the violation is past.

(b) Neither the Town nor any person, including officers and employees, may take or threaten to take, directly or indirectly, official or personal action, including, but not limited to discharge, discipline, personal attack, harassment, intimidation, or change in job, salary or responsibilities, against any officer, employee, or other person (or against any member of their family) because that person, or a person acting on their behalf, reports, verbally or in writing, or files a complaint with the Board of Ethics regarding an alleged violation of this Code, or is requested by the Board of Ethics to participate in an investigation, hearing, or inquiry.

(c) Anyone who alleges a violation of subsection (b) may bring civil action for appropriate injunctive relief, or actual damages, or both within ninety days after the occurrence of the alleged violation.

Section 18. Confidential Information.

No Town officer or employee who acquires confidential information in the course of exercising or performing his or her official powers or duties may disclose or use such information unless the disclosure or use is required by law or in the course of exercising or performing his or her official powers and duties.

Section 19. Gifts.

(a) No Town officer or employee may directly or indirectly solicit any gift.

(b) No Town officer or employee may accept or receive any gift, or multiple gifts from the same donor, having an annual aggregate value of seventy-five dollars or more.

(c) For purposes of this section, a "gift" includes anything of value, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form. The value of a gift is the gift's fair market value, determined by the retail cost of the item or a comparable item. The fair market value of a ticket entitling the holder to food, refreshments, entertainment,

or any other benefit is the face value of the ticket, or the actual cost to the donor, whichever is greater. Determination of whether multiple gifts from a single donor exceed seventy-five dollars must be made by adding together the value of all gifts received from the donor by an officer or employee during the twelve-month period preceding the receipt of the most recent gift.

(d) (1) A gift to a Town officer or employee is presumed to be intended to influence the exercise or performance of his or her official powers or duties when the gift is from a private person or organization that seeks Town action involving the exercise of discretion by or with the participation of the officer or employee.

(2) A gift to a Town officer or employee is presumed to be intended as a reward for official action when the gift is from a private person or organization that has obtained Town action involving the exercise of discretion by or with the participation of the officer or employee during the preceding twelve months.

(e) This section does not prohibit any other gift, including:

(1) gifts made to the Town;

(2) gifts from a person with a family or personal relationship with the officer or employee when the circumstances make it clear that the personal relationship, rather than the recipient's status as a Town officer or employee, is the primary motivating factor for the gift;

(3) gifts given on special occasions, such as marriage, illness, or retirement, which are modest, reasonable and customary;

(4) unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars;

(5) awards and plaques having a value of seventy-five dollars or less which are publicly presented in recognition of service as a Town officer or employee, or other service to the community; or

(6) meals and refreshments provided when a Town officer or employee is a speaker or participant at a job-related professional or educational conference or program and the meals and refreshments are made available to all participants.

Section 20. Waivers.

(a) Upon written application by a current or former Town officer or employee and written approval with justification for the waiver by the applicable department head, the Board of Ethics may grant the applicant, or his or her private employer or business, a waiver of any of the provisions of the Code of Ethics [except: the provisions pertaining to gifts, appearances by the Town officer's private employer or business, and transactional disclosure] where the Board of Ethics finds that waiving such provision would not be in conflict with the purposes and interest

of the Town, provided, however, that no such waiver shall permit any conduct or interest otherwise prohibited by Article 18 of the General Municipal Law.

(b) Waivers granted by the Board of Ethics shall be in writing, shall state the grounds upon which they are granted, and shall be available for public inspection and copying.

(c) All applications, decisions and other records and proceedings relating to such waivers shall be indexed and maintained on file by the Board of Ethics.

Section 21. Board of Ethics.

The Town shall defer to the County Board of Ethics for counsel and to render advisory opinions.

Section 22. Filing a Complaint; Investigations

(a) Upon receipt of a complaint of an alleged violation of this Town Code Ethics on a form prepared by the County Board of Ethics, which any person or entity may file, the Board of Ethics will first determine if it, in fact, alleges an action or inaction that, if the allegations are true, might constitute a violation of this Code, and that at least one person or entity accused of a violation is covered by this Code. If the Board of Ethics determines that no such action or inaction has been alleged or that no one accused is covered by this code, then it will dismiss the complaint with notice to the complainant. Similarly, if the Board of Ethics determines that an alleged violation is so minor that it is not worthy of investigation, or is clearly without merit, then it will dismiss the complaint with notice to the complainant. The Board of Ethics must make this determination within thirty days of receipt of a complaint. The Board of Ethics may bar a complainant from submitting further complaints where the Board of Ethics finds that the complainant has repeatedly abused the system.

(b) (Intentionally deleted)

(c) The Board of Ethics will send notification of the complaint, to the respondent against whom the complaint was filed, not later than seven days after making the determination in subsection (a). A copy of the complaint, must accompany such notice. The Board of Ethics will also send notification to the complainant in writing of its receipt and acceptance of the complaint.

(d) The Board of Ethics will review the complaint alleging violations of the Code of Ethics and if the Board of Ethics suspects the alleged allegations to be of a criminal nature, the Board of Ethics will immediately refer the matter to the County District Attorney's Office. The Board of Ethics may refer this matter to the County District Attorney's Office at any time during its investigation.

(e) Upon the acceptance of a complaint the Board of Ethics will conduct any investigation necessary to carry out the provisions of this Code of Ethics. In conducting such investigations the Board of Ethics may administer oaths of affirmation, subpoena witnesses, compel their attendance and require the production of books and records which it may deem relevant and material. Failure to comply with such requests made by the Board of Ethics are violations of this Code of Ethics,

except that no person who is subject of an investigation shall be required to testify before the Board of Ethics.

(f) The subject of an investigation has a right to appear before the Board of Ethics with counsel of his or her choice in executive session to question witnesses or challenge documentary evidence that may be considered by the Board of Ethics.

(g) Nothing herein shall be construed to permit the Board of Ethics to conduct an investigation of itself or any of its members. Should the Board of Ethics receive a complaint alleging that the Board of Ethics or any of its members has violated any provisions of the Code of Ethics, it shall promptly transmit a copy of the complaint to the Town Board and Town Attorney, who shall investigate the complaint and take appropriate remedial action should the results of his or her investigation warrant it. Any member of the Board of Ethics who is investigated is entitled to the same protections afforded to all subjects pursuant to the Code of Ethics.

(h) The Board of Ethics shall promptly transmit copies of its findings, opinions and recommendations to the subject of the complaint and shall provide copies to the complainant after deleting all nonessential identifying information and identifying the subject of the complaint by case number only.

(i) The Board of Ethics shall advise the Town Board of the disposition of every accepted complaint that it receives and of every related investigation that it conducts, setting forth its related findings, opinions and recommendations in writing, providing, however, that the complainant's name and all nonessential identifying information shall be deleted from all such documents. If the Board of Ethics has determined that there has been a violation of this Code of Ethics, the Board of Ethics will recommend to the Town Board implementation of appropriate remedies and/or penalties including, but not limited to, warnings, reprimands, suspension, removal from office or employment, civil fine, civil forfeiture, payment of damages or restitution, or debarment from entering any contract with the Town for a period of up to three years. The Town Board may pursue one or more of the foregoing remedies, or may order a violator to cease and desist if the violation is still ongoing, or it may initiate proceedings in the Supreme Court of the State of New York for injunctive relief to enjoin a violation of this Code or to compel compliance with this Code.

Section 23. Public Inspection of Records

The following records shall be available for public inspection:

(a) Transactional disclosure statements.

(b) Rules and regulations of the Board of Ethics.

(c) Findings, opinions and recommendations regarding complaints filed with and investigated by the Board of Ethics, after deleting all nonessential identifying information and identifying the subject of the complaint by case number only.

